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8	DEFORE THE
9	BEFORE THE PHYSICAL THERAPY BOARD
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
11	
12	In the Matter of the Accusation Against: Case No. 1D-2002-62962
13	MITSUMARO MOTOYOSHI 3102 Pender Island St.
14	Sacramento, CA 95691 A C C U S A T I O N
15	Physical Therapy License No. PT-26300,
16	Respondent.
17	
18	Complainant alleges:
19	<u>PARTIES</u>
20	1. Steven K. Hartzell ("Complainant") brings this Accusation solely in his
21	official capacity as the Executive Officer of the Physical Therapy Board of California, Department
22	of Consumer Affairs.
23	2. On or about July 9, 2001, the Physical Therapy Board issued Physical
24	Therapy License Number PT 26300 to Mitsumaro Motoyoshi ("Respondent"). The Physical
25	Therapy License was in full force and effect at all times relevant to the charges brought herein and
26	will expire on July 31, 2005, unless renewed.
27	

I	<u>JURISDICTION</u>
2	3. This Accusation is brought before the Physical Therapy Board ("Board")
3	under the authority of the following sections of the Business and Professions Code ("Code").
4	4. Section 2660 of the Code states:
5	enamining committee ander the Hammistrative Freedom for not
than 12 months, or revoke, or impose probationary conditions upon, or issue subject to and conditions any license, certificate, or approval issued under this chapter for any following causes:	
	following causes:
8	(a) Advertising in violation of section 17500 of the Business and Professions Code.
9	(b) Fraud in the procurement of any license under this chapter.
10	(c) Procuring or aiding or offering to procure or aid in criminal abortion
11	(d) Conviction of a crime which substantially relates to the qualifications functions, or duties of a physical therapist. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.
13	(e) Impersonating or acting as a proxy for an applicant in any examination given under this chapter.
15	(f) Habitual intemperance.
16	(g) Addiction to the excessive use of any habit-forming drug.
17	(h) Gross negligence in his or her practice as a physical therapist.
18	(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly of
	indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.
20	5. Section 2620.7 of the Code states that:
21	(a) A physical therapist shall document his or her
evaluation, goals, treatment plan, and summary of treatment in the patient record.	
23	(b) A physical therapist shall document the care actually
provided to a patient in the patient record.	
25	<ul><li>(c) A physical therapist shall sign the patient record legibly.</li></ul>
26	(d) Patient records shall be maintained for a period of no less than seven years following the discharge of the patient, except

that the records of unemancipated minors shall be maintained at least one year after the minor has reached the age of 18 years, and not in	that the records of unemancipated minors shall be maintained at least one year after the minor has reached the age of 18 years, and not in
2	any case less than seven years.
3	(j) The aiding or abetting of any person to violate this
4	chapter or any regulations duly adopted under this chapter.  (k) The aiding or abetting or any person to engage in the
5	unlawful practice of physical therapy.
6	(l) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a physical therepiet or physical therepiet
7	functions, or duties of a physical therapist or physical therapist assistant.
8	6. Section 2661.5 of the Code states in relevant part that:
9	(a) In any order issued in resolution of a disciplinary proceeding before the board, the board may request the
10	administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the
actual and reasonable costs of investigation and prosecution of the	
12	
13	7. Section 725 of the Code states in relevant part that:
14	treatment, repeated acts of clearly excessive prescribing or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of
15	clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, or optometrist.
16	FIRST CAUSE FOR DISCIPLINE
17	(Excessive Prescribing of Physical Therapy Treatment) [Bus. & Prof. Code '' 725, 2660]
18	
19	8. Respondent Motoyoshi is subject to disciplinary action under sections 725 and
20	2660 of the Code for excessive prescribing of physical therapy treatment and gross negligence based
21	on the following facts:
22	Patient D.C.
23	(1) Patient D.C. was referred for physical therapy treatment to Kinections Sports
24	Medicine and Physical Therapy, Inc., on April 21, 1999. Four different physical therapists provided
25	treatment for D.C. through September 25, 2001 for a total of 120 visits for physical therapy: Mary
26	Beth Kiefer provided physical therapy treatment to D.C. from April 21, 1999 to December 27, 2000,

1	then again for one visit on January 12, 2001; David Hartwig took over treatment for D.C. from
2	January 9, 2001 to May 29, 2001; Jason Marvin took over treatment of D.C. from June 4, 2001 to
3	August 29, 2001; and Respondent Motoyoshi took over treatment of D.C. on September 21, 2001.
4	Respondent=s treatment of D.C. constitutes excessive prescribing of physical
5	therapy in violation of section 725 of the Code.
6	Respondent=s treatment of D.C. constitutes gross negligence in failing to
7	adequately supervise physical therapy assistants in violation of section 2660 of the Code.
8	(2) Respondent failed to document any objective medications of progress by
9	patient C.D.
10	(3) Respondent failed to implement a home exercise program for D.C. and failed
11	to document progress or implementation of other treatment modalities.
12	SECOND CAUSE FOR DISCIPLINE (Gross Negligence and Aiding and Abetting)
13	[Bus. & Prof. Code ' 2660(h), (j) and (k)]
14	9. Complainant realleges paragraph 8 above as if fully set forth at this point.
15	(1) Respondent supervised physical therapy assistants and aides in the
16	treatment of patient D.C. without providing adequate supervision in violation of section 2660, which
17	constitutes gross negligence and aiding and abetting the unlawful practice of physical therapy.
18	THIRD CAUSE FOR DISCIPLINE (Gross Negligence and Inadequate Record Keeping)
19	[Bus. & Prof. Code ' 2660(h) and 2620.7]
20	10. Complainant realleges paragraphs 8 through 9 above as if fully set forth at this
21	point.
22	(1) Respondent failed to produce and maintain adequate documentation of
23	the physical therapy treatments provided to patient D.C. in violation of section 2660 of the Code
24	which constitutes gross negligence, and section 2620.7 of the Code, inadequate patient record
25	keeping.
26	<u>PRAYER</u>

1	WHEREFORE, Complainant requests that a hearing be held on the matters herein
2	alleged, and that following the hearing, the Physical Therapy Board issue a decision:
3	1. Revoking or suspending Physical Therapy Number PT- 26300, issued to
4	Mitsumaro Motoyoshi;
5	2. Ordering Mitsumaro Motoyoshi to pay the Physical Therapy Board the
6	reasonable costs of the investigation and enforcement of this case, pursuant to Business and
7	Professions Code section 2661.5;
8	
9	3. Taking such other and further action as deemed necessary and proper.
10	DATED: November 19, 2003
11	Dated 11/21/03
12	Original Signature by STEVEN K. HARTZELL
13	Executive Officer
14	Physical Therapy Board of California Department of Consumer Affairs State of California
15	Complainant
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